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PTO/SB/05 (03-01)

Approved for use through 10/31/2002. OMB 0651-0032

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 45532/1:8
First Inventor Ronald A. Palfenier
Title Radiometric Temperature Measurement System
Express Mail Label No. EV105698224US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

- ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
- ☐ Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Specification [Total Pages 34]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
- ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 12]
- Oath or Declaration [Total Pages 3]
 - ☐ Newly executed (original or copy)
 - ☒ Copy from a prior application (37 CFR 1.63 (d))
(for continuation/divisional with Box 18 completed)
 - ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
- ☒ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

- ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
- Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - ☐ Computer Readable Form (CRF)
 - Specification Sequence Listing on:
 - ☐ CD-ROM or CD-R (2 copies); or
 - ☐ paper
 - ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

- ☐ Assignment Papers (cover sheet & document(s))
- ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☒ Power of Attorney
- ☐ English Translation Document (if applicable)
- ☒ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
- ☐ Preliminary Amendment
- ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
- ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
- ☒ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
- ☒ Other: Communication Regarding an Office Action

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No. 09, 872,752

Prior application information: Examiner: Demetrius R. Pretlow Group Art Unit: 2863

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label 3528 (Insert Customer No. or Attach bar code label here) or ☐ Correspondence address below

Name Richard B. Preiss
Address Stoel Rives LLP
900 S.W. Fifth, Suite 2600
City Portland State OR Zip Code 97204-1268
Country U.S.A. Telephone (503) 224-3380 Fax (503) 220-2480

Name (Print/Type) Richard B. Preiss Registration No. (Attorney/Agent) 36,640
Signature [Signature] Date 10/08/2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 950.00

Complete if Known

Application Number	
Filing Date	
First Named Inventor	Ronald A. Palfenier
Examiner Name	Demetrius R. Pretlow
Art Unit	2863
Attorney Docket No.	45532/1:8

METHOD OF PAYMENT (check all that apply)
☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

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 Deposit Account Number
19-4455

 Deposit Account Name
Stoel Rives LLP

The Director is authorized to: (check all that apply)
☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION
1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	770.00
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$ 770.00)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
30	-20** = 10	X 18	= 180
Independent Claims	2	-3** = 0	X 86 = 0
Multiple Dependent			

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 180.00

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)
3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

SUBMITTED BY

Name (Print/Type)	Richard B. Preiss	Registration No. (Attorney/Agent)	36,640	Telephone	503-224-3380
Signature	<i>Richard B. Preiss</i>	Date	October 8, 2003		

(Complete if applicable)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Pr vide credit card informati n and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Application No.:

Filed:

Inventors: **Ronald A. Palfenier and Patrick J. Nystrom**

Title: **RADIOMETRIC TEMPERATURE
MEASUREMENT SYSTEM**

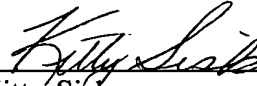
Docket No.: 45532/1:8

CERTIFICATE OF EXPRESS MAILING

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22313-1450.



Kitty Sisk

Attachments:

- [✓] Continuation Patent Application, including 34 pages of specification, claims and abstract
- [✓] Twelve sheets of drawings
- [✓] Utility Patent Application Transmittal
- [✓] Communication Regarding an Office Action Received in a Prior Application
- [✓] Combined Declaration and Power of Attorney for Patent Application (copy from prior application, pursuant to 37 CFR 1.63(d))
- [✓] Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i)
- [✓] Information Disclosure Statement
- [✓] Form PTO-1449
- [✓] Application Data Sheet
- [✓] Check in the amount of \$950.00 (filing fee and extra-claim fee)
- [✓] Fee Transmittal (in duplicate)
- [✓] Return-receipt postcard

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re continuation application of

**Ronald A. Palfenier and
Patrick J. Nystrom**

Filed: Concurrently herewith

For: **RADIOMETRIC TEMPERATURE
MEASUREMENT SYSTEM**

Anticipated Group Art Unit: 2863

Anticipated Examiner: Demetrius R. Pretlow

**COMMUNICATION REGARDING AN OFFICE ACTION
RECEIVED IN A PRIOR APPLICATION**

TO THE COMMISSIONER FOR PATENTS:

This communication relates to the April 25, 2003 Office action received in connection with Application No. 09/872,752, filed June 1, 2001, for **RADIOMETRIC TEMPERATURE MEASUREMENT SYSTEM** ("the prior application"), which this continuation application relies on for an earlier filing date under 35 USC § 120.

Remarks/Arguments begin on page 2 of this paper.

Claims 1-30 are in this application, of which claims 1 and 23 are in independent form.

The specification of this and the prior application are the same except that the paragraph numbers are offset by one.

The claims of this application compare to original claims 1-29 of the prior application as follows:

Claims 2, 4-22, and 24-29 remain unchanged.

Independent claim 1 of this application further recites, "low-temperature measurement sensitivity including measuring temperatures less than about 35°C." Support for this subject matter is found in paragraphs 16, 19, and 52 of this application.

Claim 3 of this application no longer recites, "and the low temperature measurement sensitivity includes temperatures less than about 35°C." This change harmonizes claims 1 and 3 of this application.

Independent claim 23 of this application further recites, "the temperature including temperatures less than about 35°C." Support for this subject matter is found in paragraphs 16, 19, and 52 of this application.

Claim 30 is added to recite, "non-doped YAG." Support for this subject matter is found in paragraphs 70 and 71 of this application.

In the prior application, claims 1, 2, and 16 were rejected under 35 U.S.C. § 102(e) for anticipation by U.S. Pat. No. 6,299,236 ("Ish-Shalom et al."), and claims 3 and 4 were rejected under 35 U.S.C. § 103(a) for obviousness over Ish-Shalom et al. in view of U.S. Pat. No. 6,179,466 ("Peuse et al.").

Regarding claim 3 of the prior application, the Examiner stated that Ish-Shalom et al. do not describe ... the low temperature measurement sensitivity includes the temperature less than about 35 degrees, but that Peuse et al. the low temperature measurement sensitivity includes the temperature less than about 35 degrees. The Examiner cited Peuse et al. at col. 5, lines 33-34 and col. 15, lines 29-37, which describe delta temperatures rather than target temperatures. Indeed, Peuse et al. at col. 1, lines 38-46 describes the importance of measuring and maintaining small temperature differences at 1,200°C.

The Examiner contended that it would have been obvious to modify the Ish-Shalom et al. invention to include the Peuse et al. description. However, applicants submit that no combination of the teachings from Ish-Shalom et al. and Peuse et al. would result

in the claimed invention. Moreover, none of the references of record describe low-temperature measurement capabilities.

In the prior application, claims 23 -29 were rejected under 35 U.S.C. § 103(a) for obviousness over Ish-Shalom et al. in view of Peuse et al.

The Examiner stated that Ish-Shalom et al. do not describe the light guide formed of material including yttrium aluminum garnet, but that Peuse et al. describe a light guide formed of aluminum oxide crystals (sapphire).

The Examiner contended that it would have been obvious to modify the Ish-Shalom et al. invention to include the Peuse et al. light guide material.

Applicants draw the Examiner's attention to paragraph 70 of this application, which states:

[0070] While YAG has been used for other optical applications such as in lasers, hitherto it could not be grown long enough and was usually doped, so it has never been considered as a potential light guide rod material. However, the increased demand for YAG for other applications resulted in major manufacturing advances, with producers now able to grow it in lengths up to one meter. This recent development and additional new research in non-doped YAG has led to the unexpected discovery of many properties that make YAG ideally suited for use in semiconductor applications...."

Applicants submit that skilled workers would not have been motivated to employ YAG in pyrometer light guides because of YAG's unexpectedly suitable combination of properties.

Applicants respectfully submit this continuation application for examination on the merits.

Respectfully submitted,

Ronald A. Palfenier and
Patrick J. Nystrom

By 

Richard B. Preiss
Registration No. 36,640

Date: October 8, 2003

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Telephone: (503) 224-3380
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Attorney Docket No. 45532/1:8

**NONPUBLICATION REQUEST
UNDER
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor Ronald A. Palfenier

Title RADIOMETRIC TEMPERATURE
MEASUREMENT SYSTEM

Attorney Docket Number 45532/1:8

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

I hereby request that the attached application not be published under 35 U.S.C. 122(b).

October 8, 2003

Date



Signature

(503) 224-3380

Telephone number

Richard B. Preiss
Registration No. 36,640

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

This collection of information is required by 37 CFR 1.213(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.